

## **REMARKS**

The Office Action dated March 11, 2008 has been received and reviewed. This response, submitted along with a Petition for a Three-Month Extension of Time, is directed to that action.

Claims 2, 10 and 11 have been amended to correct certain formal issues. No new matter has been added.

The applicants respectfully request reconsideration in view of the foregoing amendments and the following remarks.

### **Claim Objections**

The Examiner objected to claim 2 because the word “polymers” was inadvertently removed from the claim in the previous amendment. The claim has been amended herein, thus rendering the objection moot.

### **Claim Rejections- 35 U.S.C. §112**

The Examiner rejected claims 10 and 11 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement because the claims contain new matter. The applicants submit that the amendments to claims 10 and 11 remedy any written description issues, and respectfully request that the Examiner withdraw the rejection.

### **Claim Rejections- 35 U.S.C. §102**

The Examiner rejected claims 1-11 under 35 U.S.C. §102(e) as anticipated by Jonza et al. (US 6,737,154 B2). The applicants respectfully traverse this rejection.

Anticipation requires that each and every element as set forth in the claim must be found, either explicitly or inherently described, in a single prior art reference, and further, if the Examiner relies on a theory of inherency as to any particular element, then the extrinsic evidence must make clear that such element is *necessarily* present in the thing described in the reference<sup>3</sup>, and the presence of such element therein would be so recognized by persons skilled in the art. *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

Furthermore, inherency is not established by probabilities or possibilities, and the mere fact that a property may result from a given circumstance is not sufficient; instead, it must be shown that such property *necessarily* inheres in the thing described in the reference. *Id.*

The rejected claims require that the thickness of the at least one layer “varies locally in thickness *in order to form an image*”. The applicants submit that Jonza does not teach this limitation, and therefore does not anticipate the present claims.

The Examiner stated that Jonza teaches that the at least one layer varies locally in thickness in order to form an image, and cites element 610 in Figures 12, 15, 16 and 18-20 and col. 15, lines 59-60 as support. The applicants, however, respectfully submit that the Examiner has misinterpreted the teachings, as Jonza instead teaches image formation by a *hologram*, not a layer of locally varying thickness. Indeed, Jonza states explicitly that “[a] holographic structure **610** that provides a holographic image is provided in one skin layer”. (Jonza, col. 15, lines 59-60). As the person of ordinary skill in the art certainly knows, image formation using a hologram is much different than image formation using a layer of varying thickness. Indeed, hologram image formation is not due to the unevenness of the surface per se, but rather to refraction of light from the hologram surface.

Even still, although Jonza's figures show an uneven or varying thickness in the layer, Jonza never states or even suggests that the layer is uneven, only that it is a holographic structure.

The applicants submit that the claims are now in condition for allowance, and such favorable action is respectfully requested. If any issues remain, the resolution of which can be advanced through a telephone conference, the Examiner is invited to contact the applicant's attorney at the phone number listed below.

### **CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefore. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

### **ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,

NORRIS McLAUGHLIN & MARCUS, P.A.

By                     /Mark D. Marin/                      
Mark D. Marin - Reg.: 50,842  
Attorney for Applicant(s)  
875 Third Avenue - 18<sup>th</sup> Floor  
New York, New York 10022  
Phone: (212) 808-0700  
Fax: (212) 808-0844